



LEGISLATIVE FINANCE COMMITTEE

58TH Montana Legislature

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HOUSE MEMBERS

GARY FORRESTER, CHAIRMAN
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ROSALIE BUZZAS
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DAVE LEWIS
MONICA LINDEEN

SENATE MEMBERS

KEITH BALES, VICE CHAIRMAN
RICK LAIBLE
EMILY STONINGTON
JON TESTER
JOE TROPILA
TOM ZOOK

MINUTES

October 3, 2003
Room 102, State Capitol
Helena, Montana

ROLL CALL

Rep. Dave Lewis
Rep. John Brueggeman
Rep. Rosalie Buzzas
Rep. Gary Forrester
Rep. Dave Kasten
Rep. Monica Lindeen
Sen. Keith Bales
Sen. Rick Laible
Sen. Emily Stonington
Sen. Jon Tester
Sen. Joe Tropila
Sen. Tom Zook
Clayton Schenck, Legislative Fiscal Analyst
Cindy Campbell, Committee Secretary

Call to Order (Tape 1A-010)

The 186th meeting of the Legislative Finance Committee (LFC) was called to order at 9:05 a.m. by Representative Gary Forrester, Chair, on Friday, October 3, 2003. The meeting was held in Hearing Room 102 of the State Capitol, Helena, Montana.

1. Approval of Minutes for June 20, 2003 (Tape 1A-0001)

Representative Jayne asked that the obligation deadline for the funds from the Federal Jobs and Growth Relief Reconciliation Act be documented in the minutes. **Senator Zook** moved the minutes of the June 20, 2003, meeting be approved with the addition noted above. **VOTE:** The motion carried unanimously.

2. General Fund Update: Fiscal 2003 Actual/2005 Biennium Projected (Tape 1A-044)

Terry Johnson, Principal Fiscal Analyst, presented a general fund update. (Exhibit 1) The report provides a comparison between budgeted data as developed by the 57th and 58th Legislatures and what actually occurred in fiscal year 2003. It also provides aggregate information on revenue estimates and collections, disbursements and reversions, and a revised ending general fund balance for the 2005 biennium.

Mr. Johnson said that the general fund balance at the beginning of fiscal year 2003 was \$81.3 million. Based on HJR 2 revenue estimates and disbursement budgets adopted during the 57th and 58th legislative sessions, this balance was expected to drop to \$16.5 million by the end of fiscal year 2003. Total revenues were expected to be less than total disbursements by approximately \$64.8 million. However, the preliminary general fund balance for fiscal year end 2003 was \$46.4 million, or \$29.9 million above the level anticipated by the 58th Legislature. Mr. Johnson explained the reasons for the differences, which are detailed in Exhibit 1. Mr. Johnson responded to questions from committee members regarding revenue, expenditures, and taxes. Pat Gervais, Senior Fiscal Analyst, answered questions regarding funding cuts in various Department of Public Health and Human Services (DPHHS) programs and changes in Federal Medical Assistance Participation (FMAP) rates.

The Legislative Fiscal Division has requested a legal opinion from Lee Heiman, Staff Attorney, Legislative Services Division, regarding the class eight property tax reduction/elimination trigger as specified in 15-6-138(5), MCA. Mr. Johnson said that based on preliminary figures, the trigger will not be reached.

Chuck Swysgood, Director, Office of Budget and Program Planning, provided comments on behalf of the Executive and generally agreed with Terry Johnson's report. However, he said they have concerns relating to several items in the report and offered their perspective on the following: 1) the stability of revenue going into the second half of the biennium; 2) the \$19 million in FMAP relief fund, which they feel should stay in the general fund so it is available to backfill the \$23 million; 3) wildfire cost estimates, which they feel should be higher; and 4) variances in revenue, especially corporate taxes. Director Swysgood said he expects to have a

more refined report on revenue projections by the end of the year, but remains cautious about the future revenue picture.

Senator Tester asked about the concern regarding the sustainability of the FMAP funds and how this is balanced with the SB 407 tax cut. Director Swysgood responded that in the projected budget for 2005, the revenues equal the expenditures, which includes a modest growth in Medicaid funds and the tax cut.

In response to a question by **Senator Stonington**, Director Swysgood said the executive finds no issue with using federal money to pay the state's match for wildfire costs; although they did have a concern with using federal money in situations where FEMA is involved. However, they contacted the U.S. Treasury Department regarding this issue and were told there is no problem using other federal funds when FEMA is involved. At the Governor's request, the federal government sent a written confirmation. (See Exhibit 7)

3. Wildfire Suppression Costs Update (Tape 1B-645)

Gary Hamel, Senior Fiscal Analyst, presented an update on wildfire suppression costs. (Exhibit 3) He distributed copies of updated fire costs as of September 24, 2003. (Exhibit 4)

Senator Bales asked why there is such a variance in FEMA reimbursements in different years. Mr. Hamel said these reimbursement vary for several reasons: 1) FEMA rules have changed; 2) wildfire type, i.e. on state or federal lands; 3) type of fuel, large trees or brush; 4) weather effects; and 5) what is determined to be the percent of state responsibility. Mr. Hamel responded to questions from committee members.

Bud Clinch, Director, Department of Natural Resources and Conservation (DNRC), distributed copies of a wildfire cost information sheet as of September 25, 2003, a fire and aviation management summary for the 2003 fire season, and several maps of Montana, which provide details on the fires that DNRC provided direct protection for during the 2003 fire season. (Exhibit 5) Mr. Clinch also spoke about FEMA reimbursement and the reasons for the variance in the amount of reimbursement. He recommended that when looking at a potential policy for

funding wildfire costs, the LFC study the whole picture of urban interface. Mr. Clinch responded to questions from committee members.

The LFC members discussed various aspects of wildfire costs including: 1) state versus federal jurisdiction; 2) responsibility of private homeowners who live in areas where there is no fire protection; 3) FEMA reimbursement; and 4) development of a policy for funding wildfire costs.

Representative Lindeen asked Gary Hamel about the outcome of a resolution submitted to the Environmental Quality Council (EQC) last interim that identified wildfire funding issues and requested a study. Mr. Hamel said EQC put this study on the low-priority list and nothing was accomplished. Subsequently, he was asked to present a report on this issue to the EQC and after hearing the report the committee referred the issue to the LFC, because they felt it was more of a funding issue. **Representative Lindeen** asked Mr. Clinch if DNRC had pursued any legislation on this and he said the department did have communications with some legislators, but there was insufficient interest to proceed with legislation. He also said that DNRC developed a committee with some legislative members to study this and they will hold the first meeting next week.

Senator Tester asked for the amount expended specifically for Montana people and equipment in the early attack program. Mr. Clinch said he did not have those figures readily available, but would try to get them.

Senator Tropila asked about negotiations with the insurance companies regarding coverage for wildfires. Director Clinch said the department has had communications with the insurance companies, but they are not cooperating.

Chuck Swysgood provided comments on behalf of the Executive.

Clayton Schenck informed the LFC of Senator Cobb's request for a legislative audit on the funding of wildfire costs. He distributed a handout, drafted by him and Scott Seacat, Director, Legislative Audit Division (LAD), that provides wildfire analysis options. **Representative Buzzas** asked that the item "prevention" be added to the list of issues. **Senator Tester** asked if LAD could also do a performance audit on wildfire costs.

4. Federal Jobs and Growth Relief Reconciliation Act Funds (Tape 2B-275)

Taryn Purdy, Principal Fiscal Analyst, presented a report on the status of the state fiscal relief from the Federal Jobs and Growth Relief Reconciliation Act (the Act). (Exhibit 7) Ms. Purdy gave a brief recap and reported that \$25 million of this money was allocated to wildfire costs. The Governor has not certified the second installment of funds but will do so in the near future. Ms. Purdy told the LFC the state faces the same issues with the second set of funds as with the first. (She presented these issues to the LFC at the June 2003 meeting.) She outlined the Governor's options and informed the committee there will have to be a special session if the legislature wants a say in how these funds are appropriated.

Chuck Swysgood provided a statement on behalf of the Executive. He said that half of the first installment was allocated for wildfire costs. Some money from the second installment will also go for wildfire costs and a decision regarding how the remaining money will be spent will not be made until after there is an update on the status of the state's revenue. Mr. Swysgood told the LFC that he will recommend to the Governor that some of this money be held for next year's wildfire costs. He said the Governor is considering several options for the money including: 1) heating costs for the state's low-income population; 2) the Meals on Wheels program; and 3) the bankruptcy of NorthWestern Energy. **Senator Tester** asked about a target date for the plan and Mr. Swysgood responded that the Governor hopes to have a definite plan by the end of 2003.

Senator Stonington asked about the state's standing with regard to the bankruptcy of NorthWestern Energy. Mr. Swysgood said he does not believe we have standing but they will work with the Public Service Commission (PSC).

5. State Budget Process (Tape 2B-412)

Jon Moe, Fiscal Specialist, presented a report on the state budget process. (Exhibit 8) His report included several possible models for state budgeting, an explanation of Montana's method of budgeting, and the results of a survey of other states regarding their budgeting methods. He explained that this is the first of several reports on this issue and said that future reports will explore other features of Montana budgeting including: 1) growth in the budget; 2) examination

of state programs; and 3) prioritization of programs. He responded to questions from members of the LFC.

6. TANF Update (Tape 3A-522)

Pat Gervais presented an update on Temporary Assistance For Needy Families (TANF) funds. (Exhibit 9) Mrs. Gervais explained that the intent of the report “is to provide updated information and to make the LFC aware of recent events, their impact, and items regarding which the LFC may wish to engage in a discussion with the executive.” She reported that since adjournment of the 2003 legislative session, the Department of Public Health and Human Services (DPHHS) proceeded with administrative rule changes and implemented a reduction in the monthly cash assistance payment effective August 1, 2003. This action reduced the benefit standard, which impacted both the monthly cash payment and the income level at which families are eligible to receive cash assistance.

Mrs. Gervais also reported that there was a decrease in the cash assistance caseload. It is unknown at this time whether the change in the administrative rule impacted the caseloads, but DPHHS staff is currently working on this and will submit an update to the LFD staff when the numbers become available in November.

Another item addressed by Mrs. Gervais in her report is the TANF Maintenance of Effort (MOE). She reported that at fiscal year end 2003 the department had general fund savings above the level directed by the Governor’s spending reduction plan and rather than revert the general fund savings, approximately \$1.2 million was expended for TANF MOE, so it was fully expended within state fiscal 2003.

The last item detailed in Mrs. Gervais’ report is the award of TANF “high performance” bonuses for federal fiscal 2001 and 2002, to be issued by the U.S. Department of Health and Human Services. Together these two “performance” bonuses total approximately \$3.9 million and may be expended for the same programs and purpose as the TANF grant.

Mrs. Gervais presented several issues for consideration by the LFC, which included: 1) use of excess TANF funds; 2) the Executive's policy decision to fully expend TANF MOE in fiscal 2003; and 3) the maintenance of cash benefit level.

Hank Hudson, Director of Human and Community Services Division, DPHHS, presented information on the TANF caseload, benefits expenditures, benefit projections, and an expenditure plan. (Exhibit 10) Mrs. Gervais and Mr. Hudson answered questions from LFC members.

7. PERS Unfunded Liability (Tape 3B-480)

Greg DeWitt, Senior Fiscal Analyst, presented a report on the Public Employee Retirement System (PERS) unfunded liability. (Exhibit 11) Because of recent publicity in the media regarding this issue, Mr. DeWitt clarified for the LFC that his report does not state that the fund is in trouble. The purpose of his report is to provide information to the LFC of impacts from employer contribution increases that would likely be requested to keep the PERS actuarially sound.

In response to questions from **Representative Kasten** and **Senator Bales** regarding the investments return rate for PERS, Mike O'Connor, Executive Director, Public Employee Retirement Administration, distributed copies of a graph from the Montana Board of Investments that illustrates the investment earnings for PERS for 1996 through 2002. (Exhibit 12) Mr. O'Connor said the average rate of return is 8 percent, which is normal for 85 percent of the retirement plans. He said that the Public Employee Retirement System Board (the Board) will be reviewing this percent to determine if this is a valid assumption. He told the LFC if the Board decides to keep the rate of return at 8 percent, employees will be less willing to change from the defined benefit plan to the defined contribution plan, which has no unfunded liability.

8. Northwestern Chapter 11 Reorganization: State Fiscal Issues (Tape 4A-070)

Todd Younkin, Senior Fiscal Analyst, presented a report on the state fiscal issues in connection with the Northwestern Chapter 11 Reorganization. (Exhibit 13) Mr. Younkin explained the

three categories for participation in the bankruptcy court proceedings, the individual agency interests and actions and other issues that will affect more than one of the involved agencies.

Bob Rowe, Chairman, PSC, said he was certain that the PSC has standing to participate in the bankruptcy court proceedings and they have been coordinating with state agencies on this. He said they have been in contact with other states involved in this case to ascertain if there is interest in coordinating efforts.

Jack Stults, Director of the Water Resources Division, DNRC, said DNRC definitely has standing to participate as a creditor and would have a vote on the reorganization plan.

Mr. Younkin and Todd Everts, Legislative Environmental Analyst, responded to questions from the LFC members.

9. Information Technology Management Update (Tape 4A-440)

Brian Wolf, Chief Information Officer, presented an update on the Montana Information Technology Act (SB131). (Exhibit 14) He distributed copies of a status report on the major information technology projects. (Exhibit 15) Mr. Wolf responded to questions from committee members.

10. Other Reports (Tape 4B-300)

Taryn Purdy presented the budget amendments and operating plan changes. (Exhibits 16, 17, and 18) She informed the committee that no action was required as these reports are informational only with no issues identified by LFD staff. The required reports (Exhibit 19) and status reports on other interim study committees (Exhibit 20) were included in the LFC notebook but were not formally presented. Greg DeWitt presented an update on the highways state special revenue account. (Exhibit 21)

11. Committee Business (Tape 4B-523)

Mr. Schenck presented the items under committee business. (Exhibit 22) Committee members again discussed the work plan item, Montana Economic Analysis Study, which was submitted to

the LFC in June. The Management Advisory Committee asked that Mr. Schenck and Terry Johnson continue to monitor this and provide a status report to the LFC.

Next LFC Meeting

The next meeting of the LFC will be held December 5, 2003.

Adjournment

MOTION: Senator Zook moved to adjourn. **VOTE:** Motion carried unanimously. Meeting adjourned at 5:00 p.m.

Representative Gary Forrester, Chairman

Cindy Campbell, Committee Secretary

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